



Taxation, Revenue and Utilization of Expenditures (TRUE) Commission

CONTRACT MANAGEMENT SUBCOMMITTEE

March 3, 2011

**Subcommittee Chair/Member(s)
Marc Majed El Hassan**



Taxation, Revenue and Utilization of Expenditures
(TRUE) Commission

Wes Benwick, Chair

TRUE Commission
c/o Jeff Clements
Suite 425, City Hall
117 W. Duval Street
Jacksonville FL 32202
904-630-1405

CONTRACT MANAGEMENT SUBCOMMITTEE

March 3, 2011

Marc Majed El Hassan, Subcommittee Chair/Member(s)

Purpose of Study:

The purpose of this study is to determine how and if the City of Jacksonville's (City) tracks and manages its third-party contracts. In order to address this issue, the TRUE Commission, on September 2, 2010, approved a motion to create the Contract Management Subcommittee. Marc Majed El Hassan volunteered and was approved as the Subcommittee Chair and sole member.

Action:

In order to determine how and if the City of Jacksonville's (City) tracks and manages its third-party contracts, TRUE began by contacting City General Counsel, Cindy A. Laquidara, and asking the following general questions:

1. Once a contract is approved, what happens from there?
2. Who is responsible for compliance on both the COJ side and the third party side?
3. Is there an annual audit/review performed?
4. Is there a list of currently active contracts?

The following is Mrs. Laquidara's response:

1. What happens once a contract is approved?
In order to fully understand the contracting process, it is good to recognize that the OGC is much like any other law firm or in-house counsel. We advise the client, approve

finally of the legal form used, in which the business decisions are made by the City entity, and then forward the contract to the using agency to administer. It is the agency that does the day to day business of the City, and thus the agency that lives with the contract, ensures compliance, and otherwise manages the contractor or consultant. If a legal question arises, the agency administrator asks the assigned subject-matter expert attorney for legal assistance. For example, the vast multitude of public works construction contracts are managed by product, construction, quality, and schedule, without any input from OGC at all as a professional engineer manages the project. If a dispute arises over the interpretation of an unusual provision or occurrence, the public works employee managing the project will have a factual position, and will come to us for advice on whether the factual position is legally correct.

2. By ordinance code, public grants are audited annually. Other contracts are not audited annually, and are managed by the department (budget and results being the criteria, just like a business or other government entities). The Council Auditor has the power to audit departments or divisions, but has a small staff and cannot do many random audits.
3. The Mayor's office would know if there is a list of all active contracts; as the contracts are a significant part of what the rest of the employees for the City do or manage. We can retrieve, however, any signed contract should a question arise, although the using agency typically has it.

Upon receiving Mrs. Laquidara's response, TRUE reached out to the following individuals/departments asking if a list of active COJ contracts exists:

1. Kerri Stewart, Mayor's Office;
2. Devin Reed, Director of Central Operations (procurement falls under this department);
3. Kevin Stork, Comptroller (chief of the General Accounting Division);
4. Neill McArthur, Corporation Secretary;
5. and Kirk Sherman, Council Auditor.

Simultaneously, TRUE also reached out to all City department heads asking if they could send me a list of active contracts that pertain to your department, along with any pertinent dates, i.e. renewals, extensions, review dates, expirations, etc., These individuals/departments included:

1. Mickey Miller, Administration and Finance;
2. Ebenezer Gujjarlapudi, Environmental and Compliance;
3. Dan Kleman, Fire and Rescue;
4. Wight Greger, Housing and Neighborhoods;
5. Kevin Holzendorf, Information Technology;
6. Linda Lanier, Children's Commission;
7. Ron Barton, Jacksonville Economic Development Commission;
8. Bill Killingsworth, Planning and Development;
9. Barbara Gubbin, Public Library;
10. Joey Duncan, Public Works;
11. and Roslyn Phillips, Recreation and Community Services.

Although not all individuals/departments responded, most of those that did either referred TRUE to someone else, had to track down their department's contracts, or simply did not (or could not) produce their contracts. Very few, were able to produce and send their contracts without some effort. Additionally, it is evident that no master list of active City contracts exists, much less a procedure/process for the tracking or management of contracts. This holds true both on a City level as well as for a many and possibly a majority of the individual city departments.

Recommendations to City Council:

- Establish a task force to establish a system with policies and procedures for the tracking and management of all third party contracts/agreements.
- The task force should at a minimum include the Office of General Counsel and the Central Operations Office (procurement falls under this department).
- The tracking and management system should address all third party contracts/agreements that exceed one year either by initial term or through an extension or renewal provision of the contract/agreement.
- The tracking and management system should address all third party contracts/agreements that have a performance provision/requirement.
- Each contract/agreement should be assigned an attorney, in the Office of General Counsel, whom will be available to the department and/or personnel responsible for the contract/agreement. It is preferable that the assigned attorney is the same attorney who originally reviewed, drafted, and/or approved the contract/agreement.
- A contract/agreement timeline and review schedule should be established and followed by the assigned attorney and the department and/or personnel responsible for the contract/agreement.
- A process for verifying that each contract/agreement is following the timeline and review schedule should be established and incorporated into overall tracking and management system.
- The overall tracking and management system should ensure that all contract/agreement, timeline, review schedule, name and contact information of the responsible department, and/or personnel, assigned attorney, third party, and any and all other pertinent information is filed in a common digital system and easily and readily accessible by all pertinent parties.